



MEMORANDUM ENDORSED

MURIEL GOODE-TRUFANT
Acting Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

MAMOON SALEEMI
Assistant Corporation Counsel
Tel.: (212) 356-3539
Fax: (212) 356 3509
Email: msaleemi@law.nyc.gov

October 25, 2024

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Rich v. State of New York, et al., 21-CV-3835 (AT) (GWG)

Your Honor:

I am an Assistant Corporation Counsel in the office of Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, and the attorney for defendants Michael Miller and Vincent Corrado in the above referenced matter. For the reasons set forth herein, Defendants write to respectfully request that Your Honor issue an order compelling plaintiff to appear for a deposition on November 8, 2024 at 10:00 a.m., warn him that failing to appear will result in dismissal of his case, and that the fact discovery deadline be extended until December 4, 2024. Plaintiff's position could not be reached at the time of the filing of this letter.¹

By way of relevant background, On December 5, 2023 Your issued an Order directing the parties to file their proposed discovery schedules in this matter. See ECF No. 133. On January 11, 2024, Your Honor issued a Scheduling Order which set the date for all discovery to be completed by June 14, 2024. On June 11, 2024, August 12, 2024, and September 2, 2024 defendants requested extensions of time to complete discovery. See ECF Nos. 143, 145, 149. Your Honor granted these requests. See ECF No. 144, 146, 150.

On October 26, 2022, plaintiff was served with a Notice of Deposition scheduling his deposition on a date and time to be determined by the parties. Following his release from prison, defendants have been trying to find a mutually agreeable date with plaintiff. On October 16, 2024, the parties agreed that plaintiff would be deposed on October 23, 2024, defendant Corrado would be deposed on October 24, 2024, and defendant Miller would be deposed on October 25, 2024.

¹ The undersigned sought plaintiff's position via email on October 21, 2024 but plaintiff did not provide his position, choosing only to respond to other parts of the email.

On October 21, 2024, plaintiff, for the first time, informed the undersigned that he wanted to schedule his and the defendants' depositions on the same day, October 24, 2024. The undersigned informed plaintiff that this was not feasible, as defendants may need to use the entirety of the seven hours allotted under the Federal Rules of Civil Procedure for plaintiff's deposition, See F.R.C.P. (30)(d)(1), and that the parties already agreed to three dates for the depositions. Plaintiff further indicated that he was unwilling to proceed on October 23, 2024 for his deposition because he was scheduled to work until the evening. Since then, the undersigned has asked plaintiff to provide his availability for a full day to be deposed and he has not done so. For this reason, Defendants respectfully request that the Court compel plaintiff to appear for a virtual deposition on November 8, 2024 beginning at 10:00 a.m.

If Your Honor is inclined to grant this request, Defendants also respectfully request that the deadline to complete fact discovery be extended from October 28, 2024 to December 4, 2024. The requested extension will allow defendants to take plaintiff's deposition on November 8, 2024, and provide plaintiff with sufficient time to schedule defendants Miller and Corrado's depositions thereafter. Additionally, on October 9, 2024, plaintiff served defendants with his second request for interrogatories and request for production of documents. The additional time will allow defendants time to respond to plaintiff's discovery demands.

Accordingly, Defendants respectfully request that Your Honor issue an order compelling plaintiff to appear for a deposition on November 8, 2024 at 10:00 a.m. Defendants also respectfully request that the discovery deadline be extended from October 28, 2024 to December 4, 2024. As the requested extension will also affect the deadline to file a motion for summary judgement, and to file pre-trial documents if no such motion is filed, defendants propose the following, revised dates for these deadlines:

- Deadline to file motion for summary judgement: January 5, 2025
- Deadline to file pre-trial documents if no party files a motion for summary judgement: January 19, 2024

Defendants thank the Court for its consideration herein.

Respectfully submitted,

/s/ Mamoon Saleemi

Mamoon Saleemi
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **VIA FIRST CLASS MAIL**
Benjamin Samuel Rich
Plaintiff *Pro Se*
159 Clifford Street, Unit 2
Newark, NJ 1861

The parties must be in continual telephone contact (and, if available, email contact) to schedule depositions. Plaintiff shall contact defendants immediately to set up a date convenient for both sides for his deposition, which shall be scheduled for a full day. The deadline to complete fact discovery is extended to December 4, 2024. The remaining schedule is as stated above. Defendants shall email this order to plaintiff if they have his email address. Otherwise, they should call and read it to him. The Clerk is directed to mail a copy to plaintiff.

So Ordered.


GABRIEL W. CORENSTEIN
United States Magistrate Judge

November 1, 2024